

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

Tony Gomes Teixeira
204 Green Street
Brockton, MA

CRIMINAL COMPLAINT

CASE NUMBER: *MS# 89-815-1233*

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about April 5, 2004 in Plymouth county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense)
having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, possess a firearm in or affecting commerce, to wit: a Glock 9mm semiautomatic pistol

in violation of Title 18 United States Code, Section(s) 922(g)(1).

I further state that I am a(n) Special Agent, ATF and that this complaint is based on the following facts:
Official Title

See attached affidavit of Sheila M. O'Hara

Continued on the attached sheet and made a part hereof:



Yes



No



Signature of Complainant

SHEILA M. O'HARA

Sworn to before me and subscribed in my presence,

April 7, 2004 @ 4:25 P.M.
Date

at

Boston, MA

City and State

MARIANNE B. BOWLER
CHIEF UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Marianne B. Bowler, USMJ
Signature of Judicial Officer

AFFIDAVIT

I, Sheila M. O'Hara, being duly sworn, do depose and state that:

1. I am employed as a Special Agent with the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and have been so employed for the past 16 years. During my career in law enforcement, I have participated in numerous investigations involving the unlawful possession of firearms.

2. I am currently assigned within the Boston Field Office of ATF to Group IV, which consists of ATF Special Agents who focus their attention on firearms related activities in Eastern Massachusetts, exclusive of the City of Boston. Since joining ATF I have participated in the investigation of and/or the arrest of over a hundred individuals. Many of those investigations concerned violations of Title 18, United States Code, Section 922(g)(1) (possession of a firearm by a convicted felon).

3. I submit this affidavit in support of a criminal complaint charging Tony Gomes Teixeira ("Teixeira") with being, on April 5, 2004, a felon-in-possession of a firearm, in violation of 18 U.S.C. §922(g)(1).

4. I base the facts in this affidavit on my review of the police report supporting the arrest of Teixeira by Massachusetts State Troopers on April 5, 2004, my review of the criminal record printout for Teixeira obtained from the Massachusetts Criminal History Systems Board, and my own knowledge that the subject

firearm, a Glock, was manufactured outside the Commonwealth of Massachusetts.

5. The arrest report prepared by Massachusetts State Trooper Telford discloses the following:

- a. On Monday, April 5, 2004, at approximately 6:30 pm, Trooper Telford and Massachusetts State Trooper Jackson were on vehicle patrol in the City of Brockton. They observed a gray Nissan Altima (the "Altima") traveling on Clinton Street at a high rate of speed. They clocked the vehicle at a speed in excess of 41 mph for over a quarter of a mile in a posted 30 mph zone. The troopers activated their emergency lights and pulled the Altima to the side of the road.
- b. Trooper Telford approached the driver's side of the Altima, while Trooper Jackson approached the passenger side of the vehicle. There were three occupants in the vehicle, the driver, the front passenger, and a passenger in the right rear passenger seat, later identified as Teixeira. The driver rolled down his window and Trooper Telford immediately detected the odor of freshly burned marijuana and ordered the driver out of the vehicle. Trooper Jackson ordered the two passengers to exit the car.
- c. Trooper Jackson searched the interior passenger compartment of the Altima. He discovered some seeds


and green leafy flakes in the center console and on the floor of the vehicle. In the rear passenger compartment, Trooper Jackson found in the back pocket of the right front passenger seat a black handgun. While the three occupants were being handcuffed, Teixeira stated: "It's my gun, they know nothing about it."

- d. Trooper Jackson placed Teixeira in the rear of the police cruiser and advised him of his Miranda rights, which Teixeira said he understood.
 - e. The handgun was then determined to be a semiautomatic Glock 9mm with a defaced serial number on the frame. The magazine contained ten rounds of ammunition. The chamber was empty. When Trooper Jackson asked Teixeira about the gun, Teixeira stated: it was a "Glock 17, 9mm with ten bullets in the clip. There isn't one down the pipe."
 - f. During the transport of Teixeira to Brockton Police Department, Teixeira stated that he found the gun on the side of Glennwood Street and had brought it with him that evening in his left front jacket pocket, but that he had hid it behind the right front passenger seat when he was pulled over by the troopers.
6. I have reviewed the computer printout from the Massachusetts Criminal History Systems Board for Teixeira. It

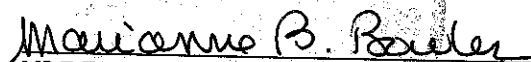
reflects several convictions prior to April 5, 2004 for crimes I know to be punishable by terms of imprisonment exceeding one year. More specifically, the printout indicates that on August 9, 2000, Teixeira was convicted of breaking and entering in the nighttime with intent to commit a felony. Teixeira received an 18 month sentence, with six months to be served. However, because of a later violation of probation, he was committed to serve the remaining 12 months.

7. I know from my own training and experience as an ATF Special Agent that Glock, the manufacturer of the firearm seized from the Altima, does not manufacture any firearms in the Commonwealth of Massachusetts.

8. Based upon all of the foregoing, I believe probable cause exists to conclude that on April 5, 2004, Tony Gomes Teixeira, having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, did possess a firearm in or affecting commerce, in violation of 18 U.S.C. §922(g)(1).


SHEILA M. O'HARA
Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Sworn and subscribed to before me this 7th day of April 2004.


MARIANNE B. BOWLER
Chief U.S. Magistrate Judge